BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT DECISION NO. 6075 AS A PRECEDENT DECISION PURSUANT TO SECTION 409 OF THE UNEMPLOYMENT INSURANCE CODE.

In the Matter of:

ANN A. ANDREWS
(Claimant)

S.S.A. No.

PRECEDENT
BENEFIT DECISION
No. P-B-303

FORMERLY
BENEFIT DECISION
No. 6075

The above-named claimant appealed to a Referee (SF-29342) from a determination of the Department which held her subject to disqualification under the provisions of Section 58(a)(4) of the Unemployment Insurance Act [now section 1257(b) of the Unemployment Insurance Code]. Prior to the issuance of the Referee's decision, the Unemployment Insurance Appeals Board on May 15, 1953, removed the matter to itself under Section 72 of the Unemployment Insurance Act [now section 1336 of the code].

Based on the record before us, our statement of fact, reason for decision, and decision are as follows:

STATEMENT OF FACT

The claimant, a resident of San Francisco, was last employed as a cashier-wrapper in a San Francisco department store for a three-month period ending December 24, 1952, when she was laid off because of a reduction in force. Prior thereto, she was similarly employed for approximately three years.

On December 26, 1952, the claimant registered for work and filed her claim for unemployment compensation benefits in a San Francisco Office of the Department of Employment. In a determination issued March 19, 1953,

the Department held the claimant subject to disqualification under Section 58(a)(4) of the Act [now section 1257(b) of the code] for a five-week period commencing March 6, 1953, in accordance with the provisions of Section 58(b) [now section 1260].

On March 4, 1953, the claimant was notified by a Department representative of a job opening as a cashier-wrapper at the prevailing wage of $216 per month. The job opening was in Oakland but required a two-month period of training in a San Francisco establishment of the prospective employer. The claimant advised the Department representative that she was not interested in working in Oakland because of the commuting problem.

The prospective employer's Oakland establishment was accessible from the claimant's home in San Francisco by a combination of local San Francisco bus and interurban train. The commuting time, including time spent in waiting and walking, approximated one hour. Many residents of San Francisco and Oakland commute to work between these cities by public transportation.

REASON FOR DECISION

Section 58 of the Unemployment Insurance Act [now section 1257(b) of the code] provides as follows:

> "(a) An individual shall be disqualified for benefits if:
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> * * *
>
> "(4) He, without good cause, has refused to accept suitable employment when offered to him, or failed to apply for suitable employment when notified by a public employment office."

Section 13(a) of the Act [now section 1258 of the code] provides in pertinent part:

> "'Suitable employment' means work in the individual's usual occupation or for which he

is reasonably fitted, regardless of whether or not it is subject to this act."

Before a disqualification under Section 58(a)(4) of the Act [now section 1257(b) of the code] may be imposed for a refusal to accept or apply for employment, it must appear that the employment in question was suitable for the claimant, and if so, that the refusal to accept or apply for the work was without good cause. In the instant case, the work for which the claimant failed to apply was work in her usual occupation and, hence, was suitable as to her. Therefore, the precise issue before us is whether the claimant failed to apply to the prospective employer without good cause.

We have had occasion in prior cases to consider the effect of the transportation problem as it relates to questions of good cause under Section 58(a)(4) of the Act [now section 1257(b) of the code]. Although the distance to work must be considered, the adequacy of transportation facilities and the time consumed in daily travel to and from work are of greater importance (Benefit Decision No. 5008). Also of importance are the custom and practice in the community of the claimant's residence respecting the matter of travel to and from work (Benefit Decisions Nos. 4545 and 4970), and the length of time that the particular claimant has been unemployed at the time of the refusal to accept or apply for work (Benefit Decision No. 5816). In any event, the fact that the place of prospective employment is located outside the limits of the city in which the claimant resides, does not in and of itself establish good cause for such refusal (Benefit Decision No. 4951).

In the instant case, the place of prospective employment was accessible by adequate public transportation from the claimant's residence at a commuting time approximating one hour. In view of the commuting habits of the community in which the claimant resided, the commuting time and the distance to work were not excessive or unreasonable. Under these facts, and considering that the claimant had been unemployed for more than two months when she was notified of the job opening, it is our opinion that the claimant failed to apply for suitable work without good cause within the disqualifying provisions of Section 58(a)(4) of the Act [now section 1257(b) of the code].

DECISION

The determination of the Department is affirmed. Benefits are denied as therein provided.

Sacramento, California, October 9, 1953.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

MICHAEL B. KUNZ, Chairman

GLENN V. WALLS

EDWARD CAIN

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 6075 is hereby designated as Precedent Decision No. P-B-303.

Sacramento, California, May 4, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

RICHARD H. MARRIOTT